



W.P.Nos.3346 to 3349 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.3346 to 3349 of 2018

and

W.M.P.Nos.4095 to 4098 of 2018

K.Jayabalan	... Petitioner in W.P.No.3346 of 2018
C.Arumuga Mudaliar	... Petitioner in W.P.No.3347 of 2018
S.Velmurugan	... Petitioner in W.P.No.3348 of 2018
K.Velmurugan	... Petitioner in W.P.No.3349 of 2018

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Agriculture Department,
Secretariat,
Fort St.George,
Chennai - 600 009.



W.P.Nos.3346 to 3349 of 2018

WEB COPY

2. The Commissioner of Agricultural Marketing
and Agri Business,
Thiru.Vi.Ka.Industrial Estate, Guindy,
Chennai - 600 032.

3. The Secretary,
Villupuram Market Committee,
Nethaji Road,
Villupuram - 605 602,
Villupuram District.

4. The Secretary,
Pudukottai Market Committee,
Pudukottai District.

5. The Superintendent,
Aranthangi Market Committee,
Pudukottai.

6. The Superintendent,
Tindivanam Market Committee,
Kallakurichi Taluk,
Villupuram District.

... Respondents 1 to 6
in W.P.No.3346 of 2018

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Agriculture Department,
Secretariat,
Fort St.George,
Chennai - 600 009.



W.P.Nos.3346 to 3349 of 2018

WEB COPY

2. The Commissioner of Agricultural Marketing
and Agri Business,

Thiru.Vi.Ka.Industrial Estate, Guindy,
Chennai - 600 032.

3. The Secretary,
Villupuram Market Committee,
Nethaji Road,
Villupuram - 605 602,
Villupuram District.

4. The Superintendent,
Regulated Market,
Kallakurichi,
Villupuram District.

5. The Secretary,
Thanjavur Market Committee,
Thanjavur.

6. The Secretary,
Nagapattinam Market Committee,
Nagapattinam.

7. The Secretary,
Cuddalore Market Committee,
Cuddalore.

8. The Secretary,
Chengalpet Market Committee,
Chengalpet.

... Respondents 1 to 8
in W.P.Nos.3347 to 3349 of 2018



W.P.Nos.3346 to 3349 of 2018

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Declaration, declaring the demand and forcible collection of market fee in respect of agricultural produce Paddy for the transactions of purchase and sales by the petitioners where there is no notification under Section 6(2) of the Act, 1987 as illegal, arbitrary, ultra vires and without jurisdiction and to forbear the respondents from resorting to demand and collect market fee for sale and transactions of Paddy in the absence of declaration of notified market area under Section 6(2) of the Act, 1987.

For Petitioners
in all W.Ps' :

Mr.G.Rajan

For Respondents :

Mr.U.Bharanidharan
Addl. Govt. Pleader for R1 and R2
(in all W.Ps')

Mr.V.Jayaprakash Narayanan
for R3 & R4 (in W.P.No.3346/2018)

Mr.V.Jayaprakash Narayanan
for R3 - R7 (in W.P.No.3347/2018)

Mr.V.Jayaprakash Narayanan for R3
(in W.P.Nos.3348 & 3349/2018)
Mr.V.Jaishakar for R6 & R7
(in W.P.Nos.3348 & 3349 /2018)



W.P.Nos.3346 to 3349 of 2018

COMMON ORDER

WEB COPY

Since the issue raised in all these Writ Petitions is one and the same, with the consent of the learned counsel appearing for both sides, all these Writ Petitions have been heard together and are disposed of by this common order.

2. Writ Petitions are filed seeking a declaration to declare the demand and forcible collection of market fee in respect of agricultural produce Paddy for the transactions of purchase and sales by the petitioners where there is no notification under Section 6(2) of the Act, 1987 as illegal, arbitrary, ultra vires and without jurisdiction and to forbear the respondents from resorting to demand and collect market fee for sale and transactions of Paddy in the absence of declaration of notified market area under Section 6(2) of the Act, 1987.

3. The learned Additional Government Pleader appearing for the respondents would submit that when a similar issue came up before this



W.P.Nos.3346 to 3349 of 2018

WEB COPY

Court in WP..Nos.17430 of 2018 etc., batch, this Court, vide order dated 22.08.2019, dismissed the Writ Petition and since the petitioners herein are also similarly placed, he prays for dismissal of the Writ Petitions.

4. The learned counsel appearing for the petitioners has also conceded the submissions of the learned Additional Government Pleader for the respondents.

5. Heard learned counsel appearing on either side and perused the materials placed before this Court.

6. The issue that arises in the Writ Petitions is already decided by the Co-ordinate Bench of this Court in W.P.Nos.17430 of 2018 etc., batch (V.Murali Vs. State of Tamil Nadu, Represented by its Secretary, Agricultural Department, Chennai and others). The relevant portion of the order reads as follows:



W.P.Nos.3346 to 3349 of 2018

WEB COPY

"25. In Madurai Maanagar Paruppu Thayarippalargal and Virpanaiyalargal Sangam v. The State of Tamil Nadu rep. By its Secretary to Government (cited supra), when an identical issue brought before the learned Single Judge of this Court, the learned Single Judge has held as follows:-

"Without establishing the new Market Committee, the question of enforcing any declaration to regulate the marketing of agricultural produces in either of the notified area or notified market area does not arise herein. In the absence of new Market Committee consisting the new committee members, a vacuum is created and without filling up the same, no further action shall be initiated or notified in the name of the erstwhile Market Committee and fresh notification ought to have been issued. The saving clause of Section 67 does not deal with the situation arising out of alteration of the limits of notified area effected under Section 9(1). Even otherwise, the repealed and saving clause Section 67 cover the issue relating to any notified area, Market Committee and the Office of such Market Committee notified under the old Act."

26. The observation made in the said judgment has been implicitly overruled by the Division Bench of this Court in its judgment rendered in Thiruvavarur Agricultural Marketing Committee vs. The State of Tamil Nadu (cited supra) wherein, the Division Bench has appreciated the other provisions of law namely Sections 16 & 17 of the New Act and has held that the Market Committee is a perpetual body corporate, what is dissolved is only the committee of management and



WEB COPY



W.P.Nos.3346 to 3349 of 2018

not committee itself. Thus, it is clear that the market declared under the old Act as well as the agricultural produce notified under the old act are saved under Section 67 of the New Act. This can be further amplified as below:-

(i) Under Section 4 of the Old Act, the Government, by notification, had declared the Madurai District as notified area for the purpose of the Old Act. Thereafter, under Section 5 of the New Act, the Market Committee has been constituted and agricultural produce were also notified. As far as Madurai District is concerned, the Market Committee has notified 20 markets located at various places at Madurai, Theni and Virudhunagar. Area around these markets were declared as market area. Subsequent to trifurcation of the District, the Government Orders have been issued excluding certain areas under Theni and Virudhunagar Districts from Madurai under Section 9 of the New Act and further notification has been issued declaring those excluded areas as area of newly formed district. As held by the Division Bench of this Court in Thiruvarur Agricultural Marketing Committee vs. The State of Tamil Nadu (cited supra), in the said process, except dissolution of the Market Committee administration, nothing is changed and by virtue of Section 67 of the New Act, the notifications, orders, instructions directions issued under the Old Act are all saved. Therefore, the contention of the petitioners that after bifurcation and trifurcation of Districts, the State has to issue fresh notification for declaring the market area and the notified market area is untenable. Fresh notification under Section 6(2) of the New Act is not necessary since, Sections 9 and 67 of the New Act does not mandate to re-issue



WEB COPY



W.P.Nos.3346 to 3349 of 2018

fresh notification in respect of the market area already notified.

(ii) Once a market area been notified and declared. If the said area is bifurcated or trifurcated or amalgamated subsequently then, the earlier notification will not get lapsed provided the alteration of the territory is notified subsequently as per Section 9 of the New Act. What more is required is to constitution of Market Committee. In this case, the notification under Section 9 r/w 4 of the New Act has been issued. Once such notification is issued then, by virtue of section 67 of the New Act, the earlier notifications regarding declaring the market and the market area is saved. Demand for fresh notification under Section 6(2) of the New Act will be only an superfluous action.

27. Reading the saving clause Section 67(4) of the New Act, we find the expression "market" is employed and not the expression "market area" is employed. Section 67 (4) of the New Act specifically say that the "market" established under the Old Act is deemed to be "market" established under the New Act. The definition of "market" under the New Act is an inclusive definition. It includes market established under Section 6(1) of the New Act and the area around the market as declared under Section 6(2) of the New Act and subsidiary markets. Therefore, once an area around the market is declared as market area, whether under the Old Act or under the New Act, such area shall always be considered as "market". Notification for market will be sufficient to include the area around the said market already notified. That is the reason why in the New Act both in Sections 9 as well as 24, the expression "market area" is used and not the word "market" is used which is contrary to Section 67(4) of the New Act.



WEB COPY



W.P.Nos.3346 to 3349 of 2018

Sections 9 and 24 of the New Act are the enabling and empowering sections respectively. Sections 9(1)(a) to 9(1)(d) of the New Act enable the Government to alter the market area. Whereas, section 24 of the New Act empowers the Market Committee to levy fee on any notified produce bought or sold in notified market.

28. Section 9(1)(d) of the New Act throw light and gives quietus to the issue. If the intention of the Government to delete any market area or to regulate any new market area after alteration of notified area then alone, declaration by notification regarding change in market area (either exclusion or inclusion) will arise. If no area is included or excluded after alteration of notified area, the necessity to notify the market area, which is already notified does not arise.

29. Once the market area is notified, any alteration if takes place invoking section 9(1) of the New Act, the earlier notification under the Old Act get saved under Section 67 of the New Act unless and until the authorities decides to alter the extend of the market area. In the present case, there is no such intention. Therefore, the Government has not issued any fresh notification under Section 6(2) of the New Act. Since, no declaration of cessation of existing market area is notified under Section 9(1)(d) of the New Act, after alteration of notified area, it is implicit that the earlier notification identifying the market area holds good.

30. In view of the above said reasons, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."



W.P.Nos.3346 to 3349 of 2018

WEB COPY

7. Following the above said decision of this Court, these Writ Petitions are dismissed with the same observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.04.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji



W.P.Nos.3346 to 3349 of 2018

WEB COPY

To

1. The Secretary to Government,
The State of Tamil Nadu,
Agriculture Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Agricultural Marketing
and Agri Business,
Thiru.Vi.Ka.Industrial Estate, Guindy,
Chennai - 600 032.
3. The Secretary,
Villupuram Market Committee,
Nethaji Road,
Villupuram - 605 602,
Villupuram District.
4. The Secretary,
Pudukottai Market Committee,
Pudukottai District.
5. The Superintendent,
Aranthangi Market Committee,
Pudukottai.
6. The Superintendent,
Tindivanam Market Committee,
Kallakurichi Taluk,
Villupuram District.



W.P.Nos.3346 to 3349 of 2018

WEB COPY

7. The Superintendent,
Regulated Market,
Kallakurichi,
Villupuram District.
8. The Secretary,
Thanjavur Market Committee,
Thanjavur.
9. The Secretary,
Nagapattinam Market Committee,
Nagapattinam.
10. The Secretary,
Cuddalore Market Committee,
Cuddalore.
11. The Secretary,
Chengalpet Market Committee,
Chengalpet.



WEB COPY



W.P.Nos.3346 to 3349 of 2018

M.DHANDAPANI,J.

vji

**W.P.Nos.3346 to 3349 of 2018
and
W.M.P.Nos.4095 to 4098 of 2018**

12.04.2023